

Message Text

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73

ACTION ARA-20

INFO OCT-01 ISO-00 SCI-06 SMI-01 L-03 SAB-01 CIAE-00

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R 031554Z SEP 74

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC 1674

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E.O. 11652: N/A

TAGS: AMGT, CFED, PN, US

SUBJ: SMITHSONIAN TROPICAL RESEARCH INSTITUTE (STRI)

CONTRACT WITH GOP

REF: STATE 175733

1. DCM DISCUSSED PROBLEM POSED BY PROPOSED STRI-GOP CONTRACT WITH FONOFF LEGAL ADVISER WHO PARTICIPATED IN DRAFTING OF ORIGINAL CONTRACT AND LAW 57. HE WAS ALREADY AWARE OF DEPARTMENT'S OBJECTIONS TO CONTRACT AS RESULT OF CONVERSATION WITH LOCAL LAWYER RECENTLY RETAINED BY STRI (GOP EX-AMBASSADOR TO WASHINGTON ROBERTO ALEMAN). EMBASSY CONCURRED WITH SUCH CONVERSATION.

2. LEGAL ADVISER STATED HE SAW NO SUBSTANTIVE PROBLEMS WITH DRAFTING NEW AGREEMENT THAT WOULD NOT CONTAIN OBJECTIONALBE "CALVO CLAUSE." AGREEMENT WOULD BE SUBJECT OF EXCHANGE OF NOTES BETWEEN EMBASSY AND FONOFF. HOWEVER, FONOFF WOULD HAVE TO BE SATISFIED THAT STRI IS USG AGENCY. MOREOVER, EXCHANGE OF NOTES WOULD BE CONSIDERED INTERNATIONAL AGREEMENT AND, IN CASE OF PANAMA, SUBJECT TO APPROVAL OF NATIONAL ASSEMBLY OF CORREGIMIENTO REPRESENTATIVES (NACR).

3. WITH REGARD TO LAW 57 IT WOULD REMAIN ON BOOKS BUT IS CONSIDERED ONLY AS LEGISLATION AUTHORIZING SIGNING

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OF CONTRACT WHICH WAS NEVER CONSUMMATED. LEGAL ADVISER

SAID THIS NOT UNIQUE CASE AND HE FORESAW NO SERIOUS IMPLICATIONS.

4. COMMENT: FROM RECENT DISCUSSIONS BETWEEN EMBASSY AND STRI DIRECTOR RUBINOFF AS WELL AS SMITHSONIAN ASST. GENERAL COUNSEL HAMILTON, WE UNDERSTAND SMITHSONIAN DRAFTING NEW AGREEMENT WHICH WILL BE COORDINATED CLOSELY WITH DEPT. EMBASSY RECOMMENDS THAT CIRCULAR 175 PROCEDURES BE INITIATED RAPIDLY AND THAT NEW DRAFT AGREEMENT ADHERE AS CLOSELY AS POSSIBLE TO ORIGINAL CONTRACT IN ORDER TO FACILITATE FONOFF CONCURRENCE. WE WILL USE MATERIAL IN USG ORGANIZATION MANUAL TO SHOW FONOFF THAT STRI IS USG AGENCY. SINCE NACR CONVENES ONLY ONCE ANNUALLY (IN OCTOBER), EMBASSY URGES PROMPT SUBMISSION OF DRAFT NOTE IF WE HOPE TO OBTAIN GOP APPROVAL THIS YEAR.
JORDEN

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